

**U.S. DEPARTMENT OF COMMERCE
ADVISORY COUNCIL ON TRADE ENFORCEMENT AND COMPLIANCE
MEMBERSHIP BALANCE PLAN**

Section 5(b)(2) of the FACA requires " ... the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee." The corresponding FACA regulations reiterate this requirement at 41 CFR § 102-3. 30(c), and, for discretionary committees being established, renewed, or reestablished, require agencies to provide a description of their plan to attain fairly balanced membership during the charter consultation process with GSA (41 CFR § 102-3. 60(b)(3)). The document created through this process is the Membership Balance Plan. The regulations further clarify that (1) the purpose of the membership balance plan is to ensure "that, in the selection of members for the advisory committee, the agency will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the advisory committee;" and (2) "[advisory committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed]." (41 CFR § 102-3.60(b)(3)).

1. **Name.** Advisory Council on Trade Enforcement and Compliance.
2. **Authority.** The Advisory Council on Trade Enforcement and Compliance (ACTEC) is being established by the Secretary of Commerce (Secretary) pursuant to duties imposed by 15 U.S.C. 1512; the Tariff Act of 1930, as amended, 19 U.S.C. 1671 et seq.; and Reorganization Plan No. 3 of 1979, 19 U.S.C. 2171 note, upon the Department of Commerce, in compliance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App., as amended.
3. **Mission/Function.** The ACTEC shall advise the Secretary on laws and government policies that deal with trade enforcement; identify and recommend programs, policies, and actions to help the United States ensure that U.S. trading partners comply with their trade agreement commitments; and recommend ways that U.S. government trade enforcement and compliance activities can better support a strong trade and manufacturing agenda and advance the commercial competitiveness of U.S. firms and workers. The ACTEC shall act as a liaison with the stakeholders represented by the membership, and shall provide a forum for stakeholders to advise the Secretary of Commerce on current and emerging laws and government policies that deal with trade enforcement. The ACTEC shall report to the Secretary on its activities and recommendations regarding trade enforcement and/or compliance.

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The ACTEC shall act as a liaison with the stakeholders represented by the membership, and shall provide a forum for stakeholders on current and emerging issues concerning trade enforcement and compliance matters.

The ACTEC shall report to the Secretary on its activities and recommendations regarding trade enforcement and compliance. In creating its reports, the ACTEC should survey and evaluate the trade enforcement and compliance concerns of its stakeholders, should identify and examine specific trade problems that need U.S. government attention, and should examine the needs in this area to inform the ACTEC's efforts. The ACTEC should recommend specific solutions to the problems and needs it identifies.

4. **Points of View.** The ACTEC shall have up to 20 members appointed by the Secretary, in accordance with applicable Department of Commerce guidance and on the basis of their ability to carry out the objectives of the ACTEC. Members shall represent U.S. entities involved in and significantly affected by imports and/or those that heavily export to, or operate in, countries with which the United States has trade agreements. Members shall also represent a broad range of products and services and shall be drawn from large, medium, and small enterprises, private sector organizations, and other entities, such as, non-governmental organizations, associations, and economic development organizations. Members shall be selected based on their ability to carry out the objectives of the ACTEC, in accordance with applicable Department of Commerce guidelines, and in a manner that ensures the ACTEC is balanced in terms of points of view, demographics, industry sector, geography of both production infrastructure and product inputs, and company size. Members shall also represent a broad range of products and services and shall be drawn from large, medium, and small enterprises, private sector organizations, and other entities, such as, non-governmental organizations, associations, and economic development organizations. Careful review of membership structure and industry sector representation will occur with each application for membership to ensure balanced representation on the ACTEC.

Members shall serve in a representative capacity, representing the views and interests of their sponsoring entities and those of their particular industrial and regional sector (as applicable); they are, therefore, not Special Government Employees. Because the ACTEC will advise the Secretary on U.S. trade enforcement and trade agreements compliance laws, policies, and programs, all members must be U.S. Nationals.

5. **Balance Factors.** Considerations when reviewing applications for membership and making appointments will include seeking representation of a broad range of companies and organizations in terms of points of view, demographics, products and services, company size, and geographic location of both production infrastructure and product inputs. Members will be selected based on their ability to carry out the objectives of the ACTEC, in accordance with applicable Department of Commerce guidelines.
6. **Candidate Identification Process.**
 - a) **Describe the Process Used:** Candidate identification will come from various sources, including solicitation through publication of a Federal Register Notice, recommendations from current and former Federal advisory committee members, Department of Commerce industry contacts and meetings, recommendations from

- industry and government sources, and outreach to relevant stakeholders. Searches for candidates will continue until all vacancies are filled.
- b) **Identify Agency Staff:** The Secretary will make final determinations, with input from the Under Secretary of Commerce for International Trade, the Assistant Secretary of Commerce for Enforcement and Compliance, the Office of Advisory Committees and Industry Outreach, the Office of Business Liaison, and the Office of Policy and Strategic Planning.
 - c) **Vacancies:** Should vacancies occur, Enforcement and Compliance and the Office of Advisory Committees and Industry Outreach will use the candidate identification process specified above to solicit candidates to fill the vacancy unless the term of the appointment would expire prior to being able to fill the vacancy.
 - d) **Membership Term Limit:** ACTEC members serve for terms of two years at the pleasure of the Secretary. Members may be reappointed to any number of additional terms, provided that the member proves to work effectively on the ACTEC and the member's knowledge and advice is still needed.
7. **Subcommittee Balance.** The Executive Director of the ACTEC (the Assistant Secretary for Enforcement and Compliance) may establish such subcommittees of the members as may be necessary, subject to the provisions of the FACA, the FACA implementing regulations, and applicable Department of Commerce guidance. Subcommittees must report back to the parent committee and do not provide advice or work product directly to the Secretary. The process for determining membership balance of any subcommittees is the same as the process for the ACTEC.
8. **Other.** Appointments shall be made without discrimination on the basis of age, ethnicity, gender, sexual orientation, disability, or cultural, religious, or socioeconomic status.

Date Prepared. The Membership Balance Plan was prepared on October 14, 2016 and updated on November 21, 2016.